Decision for dispute CAC-UDRP-102436

Case number	CAC-UDRP-102436
Time of filing	2019-04-08 12:42:19
Domain names	mittal-steel.pro

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Larisa Lebedeva

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

ARCELORMITTAL S.A. (the Complainant) is a company specialized in steel producing in the world (please see their website at: <arcelormittal.com>).

The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of several trademark containing the term “MITTAL”, such as the international trademark n° 1198046 MITTAL® registered on December 5th, 2013 and the European trademark n° 4233301 MITTAL STEEL® registered since January 7th, 2005.

The Complainant also owns numerous domain names portfolio containing the same wording MITTAL®, such as the domain name <mittalsteel.com> registered since January 3rd, 2003.

The disputed domain name <mittal-steel.pro> was registered on April 2nd, 2019, and currently resolve to a website regarding

cryptocurrency.

FACTUAL BACKGROUND

Domain name is confusingly similar to the protected mark.
The manner in which the domain name is confusingly similar to the protected mark:
i. Phonetically similar
ii. Optical similarity
iii. Conceptual/intellectual similarity

The disputed domain name <mittal-steel.pro> is confusingly similar to the Complainant's trademarks MITTAL® and MITTAL STEEL®. Indeed, the trademarks are included in its entirety.

The Complainant contends that the hyphen is not sufficient to distinguish the disputed domain name from the Complainant's trademark. Besides, the TLD is generally disregarded under the first element confusing similarity test.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

This is thus a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the complainant's trademark.

Simple exchange or adding of letters or the hyphen in this case is not a sufficient element to escape the finding that the disputed domain name is confusingly similar to the complainant's trademarks and domain names.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use his trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademark.

In addition, the disputed domain name is not used for any bone fide offerings. More particularly, there are present circumstances indicating that the Respondent has registered or acquired the disputed domain name probably for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of Complainant.

Moreover, this disputed domain name resolves to a website regarding cryptocurrency, allegedly operated by the company “Mittal Steel”. At the bottom of the website, it is said that the company is registered under the number 11251999. However, the company registered under this number is named “CRYPTO ARBITRAGE EDUCATION CLUB LTD”. The Complainant contends that the Respondent uses the disputed domain name to attract the Internet users by creating a likelihood of confusion between the disputed domain name and the Complainant’s trademark for its commercial gain. Consequently, the Complainant asserts that it does not represent a bona fide offering of goods or services pursuant to Policy Paragraph 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy Paragraph 4(c)(iii).

All these elements lead to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of such websites.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the steel protection. It is clear that its trademark and domain name containing the term “MITTAL” are well-known.

The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks MITTAL® and MITTAL STEEL®, or apply for registration of the disputed domain name by the Complainant.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore there cannot be found any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **MITTAL-STEEL.PRO**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2019-05-14

Publish the Decision